

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE SANBORN LIBRARY LLC,

Plaintiff,

- *against* -

ERIS INFORMATION INC. and ECO LOG
ENVIRONMENTAL RISK INFORMATION
SERVICES LTD.,

Defendants.

Case No.: 1:19-cv-2049

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Sanborn Library LLC (“Sanborn Library”), by its attorneys Baker & McKenzie LLP, complains and alleges against defendants ERIS Information Inc. and Eco Log Environmental Risk Information Services Ltd. (collectively, “ERIS” or “Defendants”) as follows:

NATURE OF THE ACTION

1. This is an action for an injunction, damages and other appropriate relief arising from: (i) ERIS’s willful reproduction and distribution of Sanborn Library’s catalog of fire insurance maps in violation of Section 106 of the Copyright Act, and (ii) ERIS’s intentional removal of Sanborn Library’s copyright management information (“CMI”) and insertion of its own false CMI on its infringing fire insurance maps in violation of Section 1202 of the Digital Millennium Copyright Act. *See* 17 U.S.C. § 101, *et. seq.* (hereinafter, the “Copyright Act”).

2. A fire insurance map is a highly detailed, block-by-block aerial illustration depicting street patterns, buildings, property boundaries, and other land use information. Fire insurance maps were originally used by insurers to assess risk and underwrite policies. Today,

they enjoy a myriad of applications, but are most commonly used to assist environmental consultants in conducting site assessments. Sanborn Library owns the largest and most comprehensive collection of fire insurance maps in the world.

3. ERIS has systematically copied Sanborn Library's map collection, *en masse*, to gain an unfair competitive advantage against Sanborn Library and its sister company and licensee, Environmental Data Resources, LLC ("EDR"), in the environmental risk assessment market.

4. As ERIS is well aware, Sanborn Library's portfolio of fire insurance maps are extremely valuable and widely recognized by industry professionals and the standard setting organization, ASTM International, as an important reference tool for conducting Phase I Environmental Site Assessments of commercial real estate properties.

5. Rather than license, acquire or otherwise develop its own maps, ERIS has chosen to steal them from EDR. By its own admission, ERIS has amassed a collection of nearly one million fire insurance maps which, upon information and belief, is built entirely of Sanborn Library's copyrighted maps.

6. As explained in further detail below, ERIS openly admits to copying Sanborn Library's works, repackaging the maps and selling them in products that compete directly with EDR's own offerings – but at lower price points.

7. As a result of ERIS's blatant and willful infringement, and refusal to cease and desist, Sanborn Library files this lawsuit seeking injunctive relief and damages. While the full extent of ERIS's infringing acts will be uncovered in discovery, Sanborn Library believes that ERIS has infringed thousands of works.

JURISDICTION AND VENUE

8. This Court has federal question jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Defendants because, upon information and belief, they transact business within this District and have committed tortious acts within this District by distributing copies of Sanborn Library's copyrighted maps to customers located within this District without Sanborn Library's authorization.

10. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1400.

THE PARTIES

11. Plaintiff The Sanborn Library LLC is a Delaware limited liability company with its principal place of business at 6 Armstrong Road, 4th Floor, Shelton, Connecticut 06484.

12. Upon information and belief, defendant ERIS Information Inc. is a Washington State corporation with a principal place of business at 383 Lesmill Road, Unit 2, Toronto, Ontario, Canada M3B 2T5.

13. Upon information and belief, defendant Eco Log Environmental Risk Information Services Ltd. is a Canadian limited company with a principal place of business at 383 Lesmill Road, Unit 2, Toronto, Ontario, Canada M3B 2T5.

14. Upon information and belief, ERIS Information Inc. and Eco Log Environmental Risk Information Services Ltd. are affiliates and have reproduced, prepared derivative works, and/or distributed copies of Sanborn Library's copyrighted fire insurance maps without Sanborn Library's permission.

FACTUAL BACKGROUND

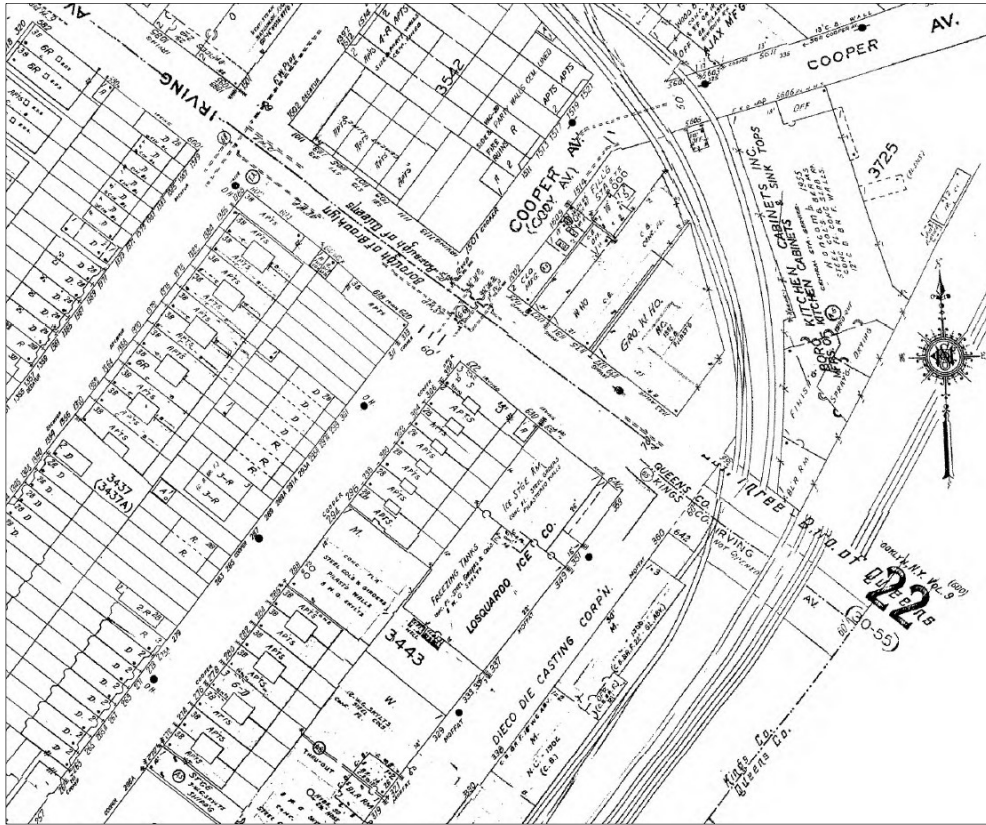
The Sanborn Map Portfolio

15. Sanborn Library's sister company and licensee, EDR, is a leading provider of environmental risk information services and solutions, and the owner of the largest and most accurate database of environmental land use information in the world. EDR's offerings include radius map reports, area and corridor studies, city directory reports, historical aerial photographs, topographical maps, property tax maps, building permit reports, land title reports, as well as the complete catalog of fire insurance maps originally published by Sanborn Library's predecessor-in-interest, the Sanborn Map Company (the "Sanborn Maps"). In addition, EDR offers a suite of workflow tools to help clients manage and access these resources in all aspects of property due diligence and compliance.

16. The Sanborn Maps were originally created for the fire insurance industry to facilitate the review and comparison of geographical locations over multiple years, in order to assess risk and underwrite insurance policies. Beginning in 1866 and throughout much of the twentieth century, Sanborn Library (through its predecessors-in-interest) studiously tracked changes in landscapes, property boundaries and land uses for approximately 12,000 American cities and towns and documented its findings in each Sanborn Map it published. Today, the Sanborn Maps are used by professional and governmental organizations for a variety of applications, notably for conducting Phase I Environmental Site Assessments ("ESAs").

17. Each Sanborn Map reflects the craftsmanship and care of Sanborn Library's cartographers, who studiously selected, arranged, and illustrated an array of environmental features and information in painstaking detail. The Sanborn Maps contain, among other things, highly detailed renderings of buildings, structures, street blocks, and property boundaries, as well

as information regarding occupants, property uses, block numbers, and other land use activities observed by the original surveyor. An example of one such Sanborn Map, showing a cross-section of the border of Brooklyn and Queens, New York is reproduced below.



18. Originally, Sanborn Maps, like the one reproduced above, were published in large bound lithographic books. Updates to the maps were made directly on the pages of the books themselves, by overlaying new illustrations, adding color-coded highlights, and an assortment of other notations. Initially, Sanborn Library monetized print editions of the Sanborn Maps collection by renting out or loaning its lithographic books to customers, for a limited duration of time. Subsequently, Sanborn Library converted its collection to microfilm. Eventually, EDR began digitizing the Sanborn Maps collection, georeferencing and stitching each map together to create a seamless map mosaic. Today, digital copies of the Sanborn Maps can be purchased for commercial use exclusively through EDR, on an a-la-carte basis, through a variety of

customizable report packages. In all, there are roughly 1.2 million Sanborn Maps in Sanborn Library's collection.

19. Sanborn Maps have been duly registered and, to the extent applicable, renewed, with the U.S. Copyright Office in accordance with all necessary formalities. At present, Sanborn Library owns the copyrights in over 5,000 volumes of Sanborn Maps, which are registered with the U.S. Copyright Office and within the initial or renewal term of protection.

ERIS's Infringing Acts

20. ERIS is a direct competitor of Sanborn Library's sister company and licensee, EDR. Like EDR, ERIS purports to provide land use information for the environmental risk assessment market, including various database reports and products for conducting ESAs.

21. Upon information and belief, in or around 2011, ERIS purchased a complete collection of Sanborn Maps from 1867-1970 on microfilm from ProQuest LLC ("ProQuest"), an authorized publisher of microfilm copies of Sanborn Maps for the educational and academic research market. The terms and conditions of ProQuest's sale limited ERIS's use of the Sanborn Maps for research purposes, and expressly prohibited ERIS from distributing copies of the microfilm in print or digital forms to third parties. Despite these clear restrictions, ERIS brazenly copied, repackaged and sold electronic copies of the Sanborn Maps for its own commercial gain.

22. Upon information and belief, in or around 2014, ERIS entered the U.S. market and began offering environmental data and research products designed to compete directly with EDR's own reports.


23. According to its website, ERIS offers a variety of report packages containing fire insurance maps, created from an in-house collection of close to 1 million fire insurance maps.

Upon information and belief, ERIS built its entire collection of approximately 1 million fire insurance maps off of Sanborn Library's back and without its permission.

24. For example, as shown in the following screenshot from ERIS's website, ERIS purports to sell location-specific fire insurance map reports for \$135 per report:

HISTORICAL PRODUCTS & TOOLS

FIRE INSURANCE MAPS	TOPOGRAPHIC MAPS	CITY DIRECTORIES	HISTORICAL AERIALS	ENVIRONMENTAL LIENS	CHAIN OF TITLES
BUNDLE - LIEN & TITLE	PHYSICAL SETTING REPORT (PSR)	ERIS XPLOER TOOL	VAPOR SCREENING TOOL		



Fire Insurance Maps **\$135 (with Database Report only)**

Fire Insurance Maps were first published in the mid-1800s. These maps show details of urban and industrial areas such as roads, building footprints, building construction details, location of storage tanks, the building use at the time the map was prepared and the names of the building occupants. From these maps you can note the location of wells, raw material storage locations and the locations of storage tanks containing chemicals and petroleum products.

ERIS has a collection of close to 1 million historic Fire Insurance Maps covering many areas of the United States. Fire Insurance Maps may be purchased along with a database report or as part of a package.

See ERIS Environmental Risk Information Services, <https://www.erisinfo.com/products-services/> (last visited February 18, 2019).

25. In addition, according to the following screenshot from ERIS's website, ERIS bundles these fire insurance maps with every single environmental database report package it sells:


DATABASE REPORTS

ERIS COVERS THE UNITED STATES!

Whether you are doing a Phase I, Phase II, remediation, loan or insurance assessment, or legal due diligence, ERIS is your fast, accurate and affordable resource for assessing environmental risk. ERIS can provide environmental database reports that meet ASTM/AAI standards, as well as the historical products of your choice to fulfill your requirements.

All prices in USD.

ERIS DATABASE REPORT	CUSTOM RADIUS REPORT	CUSTOM LINEAR REPORT	REPORT PACKAGES	ERIS DIRECT	ERIS XPLORER TOOL
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E1 | ERIS REPORT+FIMs
E2 | ERIS REPORT+FIMs +CHOOSE 1 (Aerial, Topo, CD)
E3 | ERIS REPORT+FIMs +CHOOSE 2 (Aerial, Topo, CD)
E4 | ERIS REPORT+FIMs +AERs+TOPOs+CD
E5 | ERIS REPORT+FIMs +AERs+TOPOs+CD+ELS
E6 | ERIS REPORT+FIMs +AERs+TOPOs+CD+ELS+COT

Environmental Database Report Packages

E1 \$95 / \$135; E2 \$220; E3 \$275; E4 \$300; E5 \$410; E6 \$605

ERIS introduces environmental database report product packages...

The foundation of each package is an ERIS Database Report for your site of choice.

The **E1** includes a corresponding set of Fire Insurance Maps from our comprehensive collection of Historical products.

The **E2** package adds a choice of one of three additional Historical products: Aerial Photos, Topographic Maps, or a City Directory (one street). The new Physical Setting Report (PSR) will be included in every E2 to E6 package. (Prices quoted reflect 'not finding' or 'finding' FIMs associated with the subject property).

The **E3** adds a choice of two of three additional Historical products to your environmental database report. Choose from: [Aerial Photos](#), [Topographic Maps](#), or a [City Directory](#) (one street).

The **E4** is an ERIS Database Report, plus FIMs, Aerial Photos, Topographic Maps and a City Directory (two streets).

The **E5** package adds an Environmental Lien Search to your Database Report and Historical information.

The **E6** adds a Chain of Title to your Database Report and Historical information.

The offering of these new product packages will not impact any current packages or volume pricing agreements previously established with ERIS.

See ERIS Environmental Risk Information Services, <https://www.erisinfo.com/products-services/#report-packages/> (last visited February 18, 2019). Upon information and belief, each time ERIS sells a fire insurance database report or environmental database report package, it commits a successive act of infringement.

26. ERIS openly brags about stealing Sanborn Library's content on a "massive" scale. Indeed, in a separate section of its website, a portion of which is reproduced below, ERIS lays out a step-by-step blueprint for reproducing and preparing unauthorized derivative works based on the Sanborn Maps:

#4 – Fire Insurance Maps

ERIS has a massive collection of historical Fire Insurance Maps. The video shows how the data look after each stage during the process of preparing FIM data: Scanned paper map → Georeferenced → clipped and stitched into one seamless map.



ERIS celebrates #GISDay ! U.S. Fire Insurance Maps are georeferenced, clipped, then stitched into one seamless map - GIS ready!

See ERIS Environmental Risk Information Services, <https://www.erisinfo.com/gis-day/> (last visited February 18, 2019).

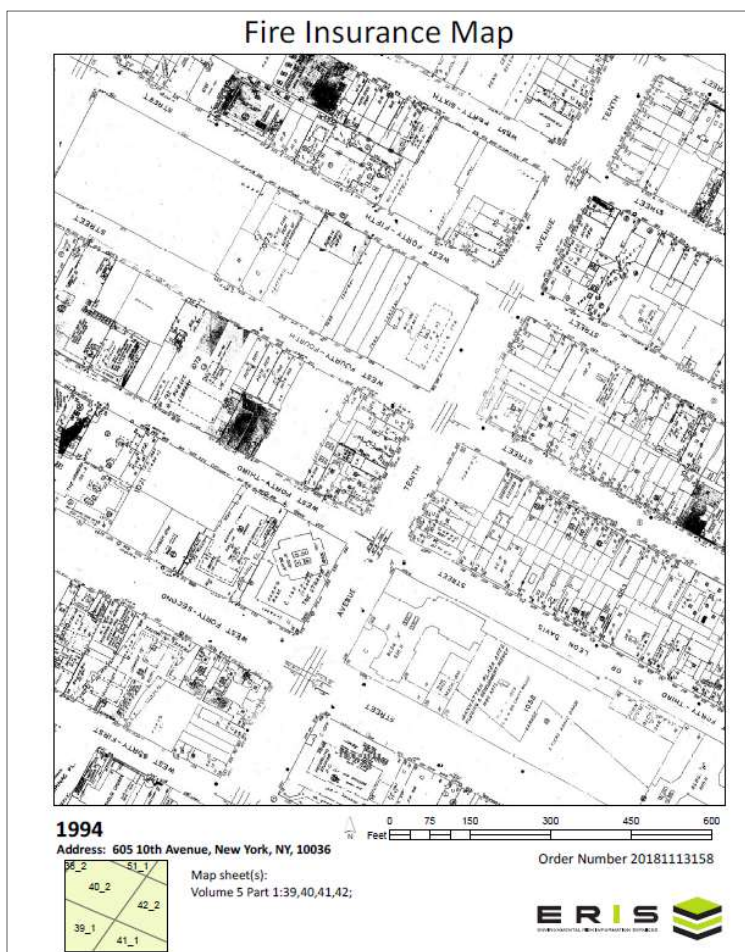
27. In the video shown above, ERIS explains that first, a “[p]aper copy of sanborn is scanned.” Second, a geospatial map processing program, called ArcMap is “used to locate [the] sanborn.” ERIS claims that this step is then “repeated with all sanborns” so that each Sanborn Map is stitched together “into one seamless map.”

28. To the extent ERIS has indeed repeated this process “with all sanborns,” as ERIS so claims, it has infringed thousands of works owned by Sanborn Library.

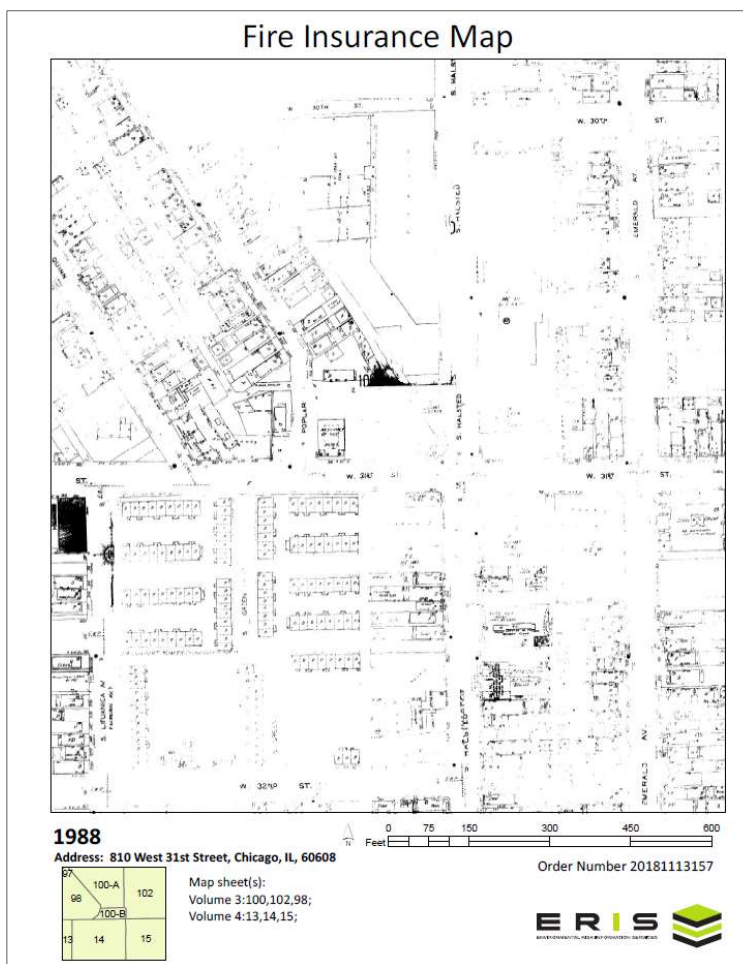
29. Although the full breadth of ERIS’s infringement cannot be known until discovery is completed, ERIS’s infringement appears to be extensive and pervasive.

30. For example, an ERIS environmental property report for a site located at 605 10th Avenue, New York, NY contains sixteen separate Sanborn Maps currently under copyright protection and infringes, including without limitation, one or more of the registered copyrights listed in Exhibit A. ERIS’s fire insurance map for this address from 1994 is reproduced below,

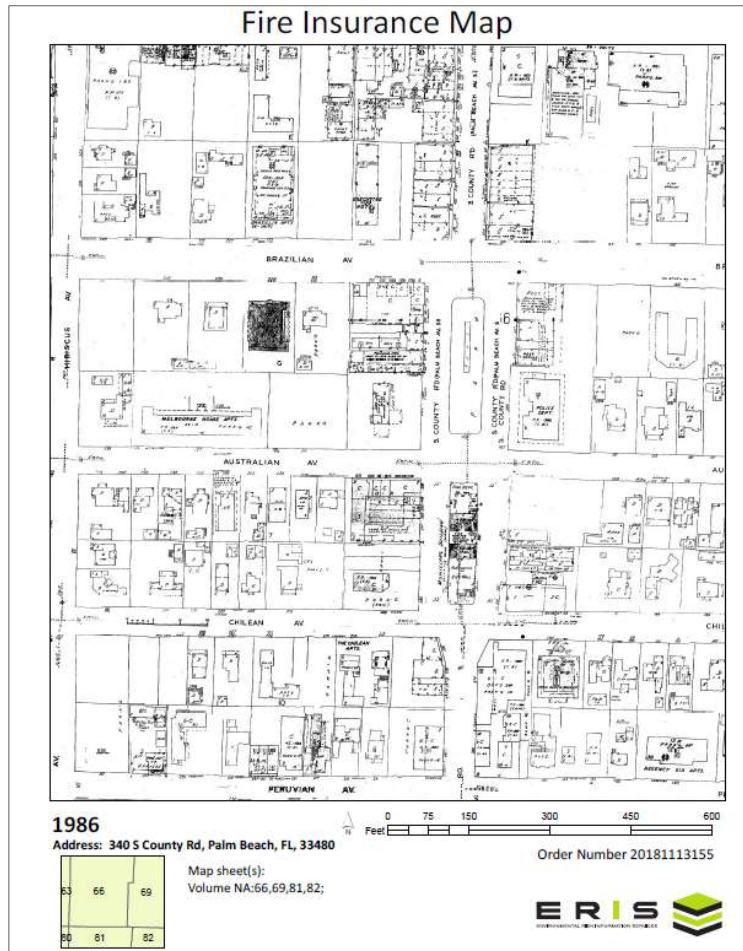
depicts a verbatim copy of Sanborn Library's map(s) for the same location, and constitutes an infringement of at least Copyright Registration No. VA 936-904 owned by Sanborn Library.



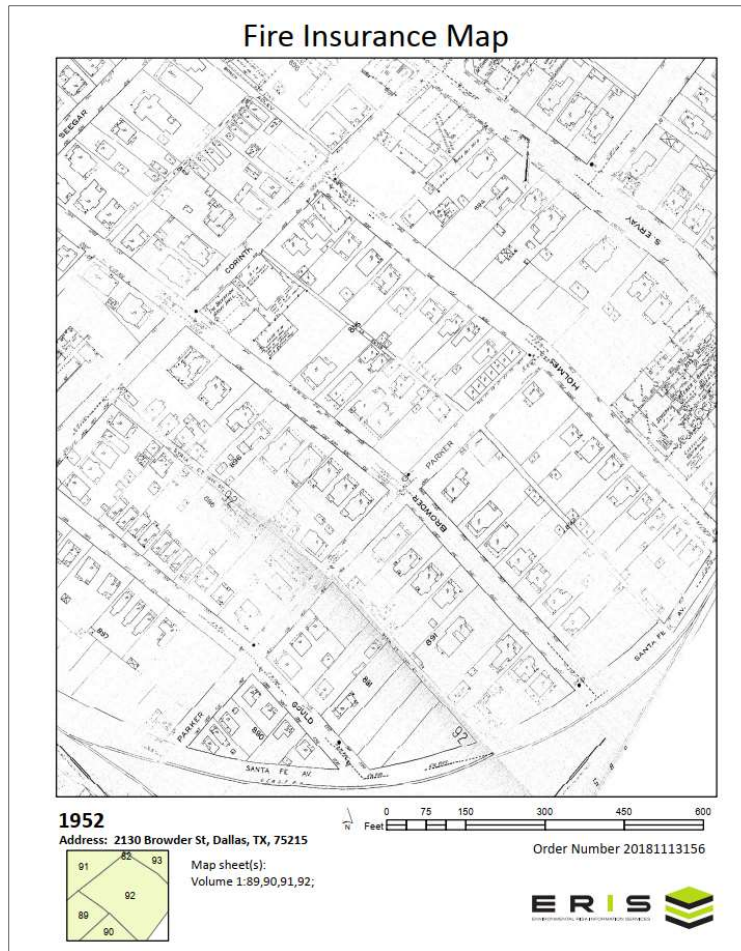
31. In addition, an ERIS environmental property report for a site located at 810 West 31st Street, Chicago, IL contains five separate Sanborn Maps currently under copyright protection and infringes, including without limitation, one or more of the registered copyrights listed in Exhibit B. ERIS's fire insurance map for this address from 1988 is reproduced below, depicts a verbatim copy of Sanborn Library's map(s) for the same location, and constitutes an infringement of at least Copyright Registration No. VA 1-063-062 owned by Sanborn Library. In the case of this particular map, ERIS's reproduction is so poor that the contents and details of the map are virtually illegible, resulting in an inferior product.



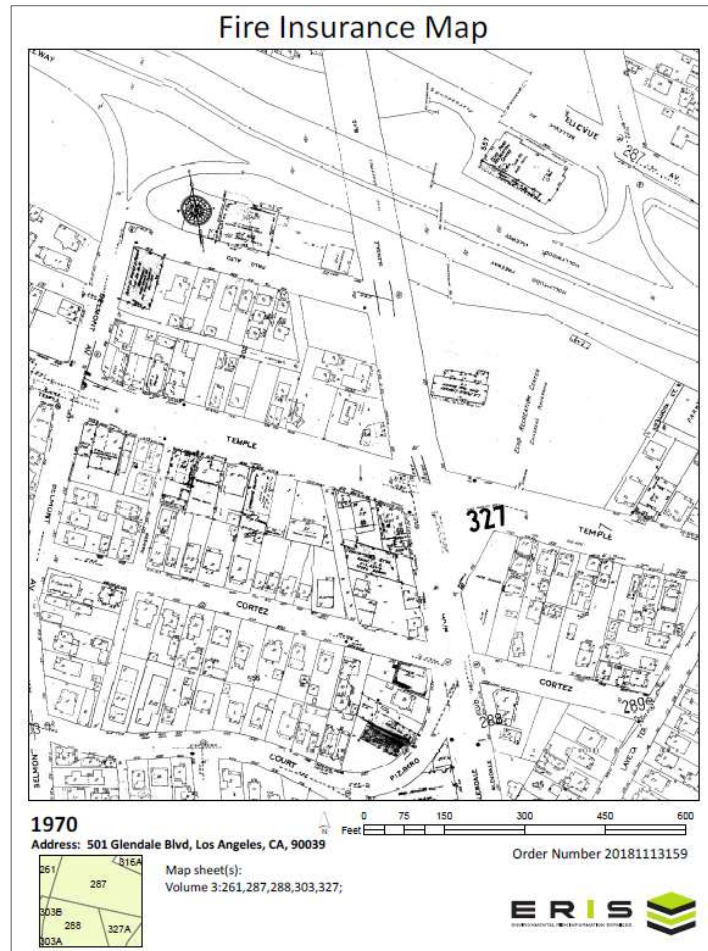
32. Moreover, an ERIS environmental property report for a site located at 340 S. County Road, Palm Beach, FL contains eight separate Sanborn Maps currently under copyright protection and infringes, including without limitation, one or more of the registered copyrights listed in Exhibit C. ERIS's fire insurance map for this address from 1986 is reproduced below, depicts a verbatim copy of Sanborn Library's map(s) for the same location, and constitutes an infringement of at least Copyright Registration No. VA 992-803 owned by Sanborn Library.



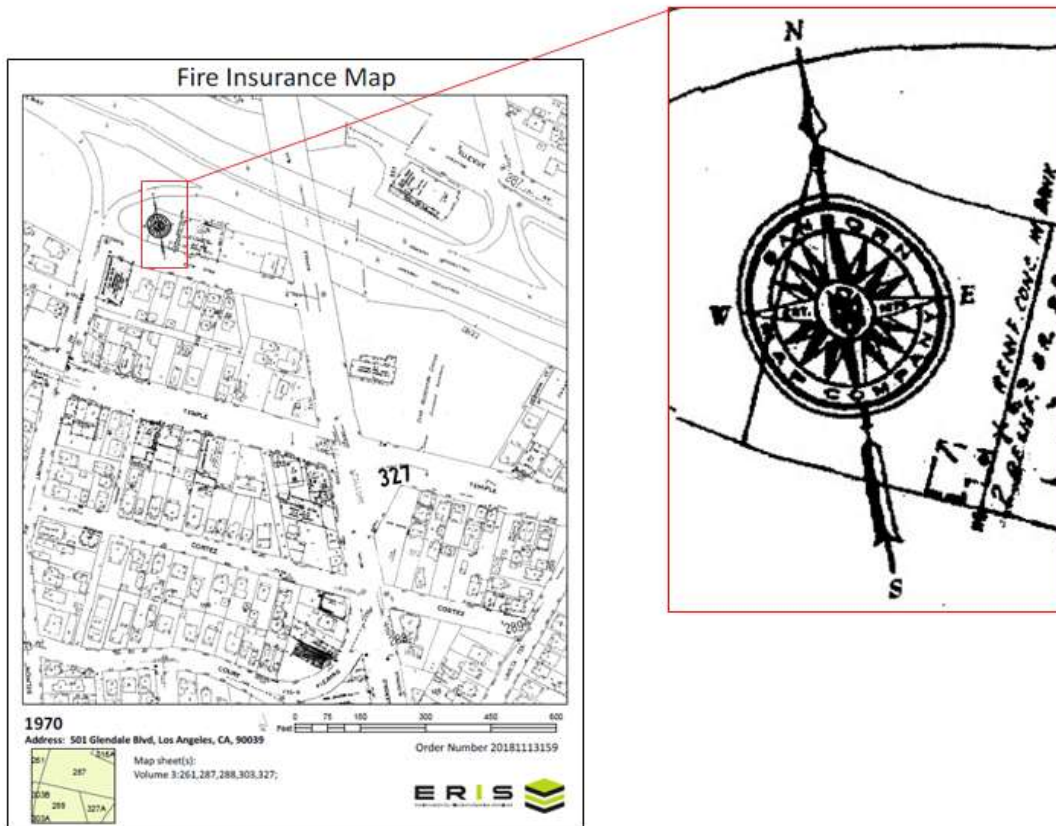
33. An ERIS environmental property report for a site located at 2130 Browder Street, Dallas, TX contains seven separate Sanborn Maps currently under copyright protection and infringes, including without limitation, one or more of the registered copyrights listed in Exhibit D. ERIS's fire insurance map for this address from 1952 is reproduced below, depicts a verbatim copy of Sanborn Library's map(s) for the same location, and constitutes an infringement of at least Copyright Registration No. F 11290 owned by Sanborn Library.



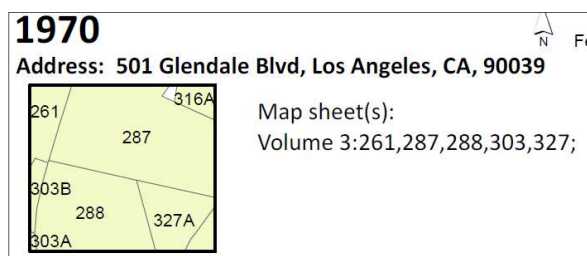
34. Finally, an ERIS environmental property report for a site located at 501 Glendale Blvd, Los Angeles, CA contains thirteen separate Sanborn Maps currently under copyright protection and infringes, including without limitation, one or more of the registered copyrights listed in Exhibit E. ERIS's fire insurance map for this address from 1970 is reproduced below, depicts a verbatim copy of Sanborn Library's map(s) for the same location, and constitutes an infringement of at least Copyright Registration No. VA 836-976 owned by Sanborn Library.



35. Although ERIS has tried to conceal its tracks by intentionally removing Sanborn Library’s copyright notice from the Sanborn Maps, it leaves several clues of its copying behind. For example, as with many of the infringing maps, the map of Los Angeles reproduced above contains Sanborn Library’s ornately drawn compass, which contains the initials “SM” – which stands for “Sanborn Maps” – and the words “Sanborn Map Company” as shown below:



36. In addition, all of the maps that appear in ERIS's reports contain numerical citations to the Sanborn Maps, which correspond to each original Sanborn Library map sheet and volume number:



ERIS's Removal and Falsification of CMI

37. ERIS's copyright violations are not limited to its unauthorized reproduction and distribution of the Sanborn Maps. ERIS has also knowingly and willfully removed, altered and/or falsified the original CMI conveyed in connection with each Sanborn Map. Over the

years, the Sanborn Maps were published with a title page, containing the title, identifying Sanborn Library (or its predecessor-in-interest) as the author and owner, and setting forth the terms and conditions for the use of the map. Those terms make clear that the maps may not be reproduced without written permission from the owner. Upon information and belief, ERIS intentionally removed each title page and the CMI reflected therein, and distributed infringing copies of Sanborn Maps knowing that the CMI had been removed, for the purpose of concealing its infringement.

38. In addition, upon information and belief, ERIS affixed and distributed falsified CMI in at least three different ways. First, ERIS incorrectly holds itself out as the copyright owner of the maps by prominently displaying the ERIS name and logo underneath each infringing map, thus creating the false impression that ERIS owns the maps. Second, the table of contents distributed with each infringing report falsely claims that “[c]opyright in data used in the Service or Reports(s) (the “Data”) is owned by ERIS or its licenors.” In fact, ERIS does not own the Sanborn Maps and Sanborn Library has never granted ERIS a license to use the Sanborn Maps. Third, ERIS distributes the infringing Sanborn Maps with false terms and conditions of use. The table of contents state, incorrectly, that “[t]he Service, Report(s) and Data may not be copied or reproduced in whole or in any substantial part without prior written consent of ERIS.” In actuality, the Sanborn Maps that appear in ERIS’s reports may not be copied or reproduced by anyone – including ERIS – without Sanborn Library’s prior written consent. All of this was done knowingly and with the intention of concealing ERIS’s infringement.

39. Despite written demand that Defendants cease and desist their infringing activity, Defendants have failed to do so.

COUNT I – COPYRIGHT INFRINGEMENT
(17 U.S.C. § 101 *et seq.*)
(against all Defendants)

40. Sanborn Library incorporates by reference the allegations in each of the preceding paragraphs as if fully set forth herein.

41. Each Sanborn Map is an original work of authorship and constitutes copyrightable subject matter under the laws of the United States.

42. Sanborn Library has duly complied with all laws pertinent to the Sanborn Maps, has registered each Sanborn Map with the U.S. Copyright Office through its predecessors-in-interest, and is the legal owner of the rights in the aforementioned works.

43. Defendants had and have access to the Sanborn Maps, including through ERIS's purchase of microfilm copies of a substantial portion of the Sanborn Maps collection from ProQuest and by other means.

44. Defendants have copied, reproduced, distributed, publicly displayed, and prepared derivative works based on the copyrighted Sanborn Maps without the consent or authority of Sanborn Library, thereby infringing upon Sanborn Library's exclusive rights in the copyrights in and to the Sanborn Maps, all in violation of 17 U.S.C. § 106.

45. Upon information and belief, Defendants' infringement of Sanborn Library's copyrights in the Sanborn Maps is deliberate, willful and in utter disregard of Sanborn Library's rights.

46. As a direct and proximate result of ERIS's infringement of Sanborn Library's copyrights, Sanborn Library is entitled to damages in an amount to be determined at trial, which is not currently ascertainable.

47. Alternatively, at its election, Sanborn Library is entitled to the maximum allowable amount of statutory damages in the amount of \$150,000 with respect to each work infringed, or for such other amounts as may be proper under 17 U.S.C. § 504(c).

48. Sanborn Library is further entitled to its attorneys' fees and costs pursuant to 17 U.S.C. § 505.

49. Defendants' acts have caused, and will continue to cause, irreparable injury to Sanborn Library. Sanborn Library has no adequate remedy at law and is thus entitled to an injunction along with damages in an amount to be determined at trial.

COUNT II – VIOLATION OF THE DMCA
(17 U.S.C. § 1202)
(against all Defendants)

50. Sanborn Library incorporates by reference the allegations in each of the preceding paragraphs as if fully set forth herein.

51. Each Sanborn Map published by Sanborn Library is conveyed in connection with CMI, specifying the map's title, author, owner, and any applicable terms and conditions of use.

52. Upon information and belief, Defendants have intentionally removed Sanborn Library's CMI and inserted its own false CMI, identifying ERIS as the owner or licensee of the infringing fire insurance maps contained in ERIS's reports, and setting forth false terms and conditions of use.

53. Upon information and belief, Defendants' removal of the CMI from the infringing fire insurance maps was intentional and Defendants' distribution of the fire insurance maps was with knowledge that the CMI had been removed without authorization.

54. Defendants' conduct violates 17 U.S.C. § 1202(a) and (b) of the Digital Millennium Copyright Act ("DMCA"), which prohibits the falsification, alteration and/or removal of CMI.

55. Upon information and belief, the alteration and/or removal of said CMI was made by Defendants intentionally, knowingly and with intent to induce, enable, facilitate, or conceal its infringement of Sanborn Library's copyrights in the Sanborn Maps.

56. As a direct and proximate result of ERIS's falsification, alteration and/or removal of CMI, Sanborn Library is entitled to damages in an amount to be determined at trial, which is not currently ascertainable.

57. Alternatively, at its election, Sanborn Library is entitled to the maximum allowable amount of statutory damages in the amount of \$25,000 with respect to each violation, or for such other amounts as may be proper under 17 U.S.C. § 1203(c).

58. Sanborn Library is further entitled to its attorneys' fees and costs pursuant to 17 U.S.C. § 1203(b).

59. Sanborn Library has suffered and will continue to suffer irreparable harm as a result of Defendants' continued falsification, removal and/or alteration of Sanborn Library's CMI on Sanborn Maps. Sanborn Library has no adequate remedy at law and is thus entitled to an injunction along with damages in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Sanborn Library respectfully demands:

A. A declaration that Defendants have directly and/or indirectly infringed Sanborn Library's copyrights in each of the Sanborn Maps.

B. A declaration that Defendants have falsified, altered and/or removed CMI in violation of the DMCA.

C. A permanent injunction requiring that Defendants, their owners, partners, officers, directors, agents, servants, employees, representatives, licensees, subsidiaries, and distributors, and all persons acting in concert or participation with each or any of them cease directly or indirectly infringing, or causing, enabling, facilitating, encouraging, promoting, inducing or participating in the infringement of any of Sanborn Library's copyrights or exclusive rights protected by the Copyright Act, whether now in existence or hereafter created.

D. An award, pursuant to 17 U.S.C. § 504, of Sanborn Library's actual damages and Defendants' profits attributable to the infringements or, alternatively at Sanborn Library's election, for statutory damages, including such damages for willful infringement, for each separate act of infringement by Defendants in the maximum amount allowable by law.

E. An award, pursuant to 17 U.S.C. § 1203(c), of Sanborn Library's actual damages and Defendants' profits or, alternatively at Sanborn Library's election, for statutory damages for Defendants' violations of the DMCA in the maximum amount allowable by law.

F. Sanborn Library's costs, including its reasonable attorneys' fees, pursuant to 17 U.S.C. §§ 505 and 1203.

G. Prejudgment and post-judgment interest according to law.

H. Such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Sanborn Library demands a trial by jury on all issues so triable in this action.

Dated: New York, New York
March 6, 2019

Respectfully submitted,

BAKER & McKENZIE LLP

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